

Senate Bill No. 331

CHAPTER 873

An act to add Section 340.8 to the Code of Civil Procedure, relating to toxic injuries.

[Approved by Governor October 12, 2003. Filed
with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 331, Romero. Toxic injuries: limitation of actions.

Existing law sets forth the statute of limitations applicable to various causes of action, including a civil action for injury or illness based upon exposure to asbestos, as specified.

This bill would establish a separate statute of limitations for a civil action for injury or illness based upon exposure to a hazardous material or toxic substance other than asbestos, as specified. The bill would also state the intent of the Legislature to codify and disapprove the rulings in specific court cases.

The people of the State of California do enact as follows:

SECTION 1. Section 340.8 is added to the Code of Civil Procedure, to read:

340.8. (a) In any civil action for injury or illness based upon exposure to a hazardous material or toxic substance, the time for commencement of the action shall be no later than either two years from the date of injury, or two years after the plaintiff becomes aware of, or reasonably should have become aware of, (1) an injury, (2) the physical cause of the injury, and (3) sufficient facts to put a reasonable person on inquiry notice that the injury was caused or contributed to by the wrongful act of another, whichever occurs later.

(b) In an action for the wrongful death of any plaintiff's decedent, based upon exposure to a hazardous material or toxic substance, the time for commencement of an action shall be no later than either (1) two years from the date of the death of the plaintiff's decedent, or (2) two years from the first date on which the plaintiff is aware of, or reasonably should have become aware of, the physical cause of the death and sufficient facts to put a reasonable person on inquiry notice that the death was caused or contributed to by the wrongful act of another, whichever occurs later.

(c) For purposes of this section:

(1) A “civil action for injury or illness based upon exposure to a hazardous material or toxic substance” does not include an action subject to Section 340.2 or 340.5.

(2) Media reports regarding the hazardous material or toxic substance contamination do not, in and of themselves, constitute sufficient facts to put a reasonable person on inquiry notice that the injury or death was caused or contributed to by the wrongful act of another.

(d) Nothing in this section shall be construed to limit, abrogate, or change the law in effect on the effective date of this section with respect to actions not based upon exposure to a hazardous material or toxic substance.

SEC. 2. It is the intent of the Legislature to codify the rulings in *Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, and *Clark v. Baxter HealthCare Corp.* (2000) 83 Cal.App.4th 1048, in subdivisions (a) and (b) of Section 340.8 of the Code of Civil Procedure, as set forth in this measure, and to disapprove the ruling *McKelvey v. Boeing North American, Inc.* (1999) 74 Cal.App.4th 151, to the extent the ruling in *McKelvey* is inconsistent with paragraph (2) of subdivision (c) of Section 340.8 of the Code of Civil Procedure, as set forth in this measure.

